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Canadian Civil Liberties Association challenging Nova Scotia COVID-19 protest ban

By Lyndsay Armstrong
The Canadian Press
Staff

[Contact](#)

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HALIFAX - Last spring's government-ordered ban against COVID-19 protests in Nova Scotia went too far, the Canadian Civil Liberties Association argued Monday before the province's Court of Appeal.

The rights group was challenging a court order granted to the Nova Scotia government in May 2021 that sought to prevent a rally against COVID-19 public health restrictions. While the order was aimed at two anti-mask protests, its reach extended to all public gatherings and it also banned their promotion on social media.

Justice Scott Norton granted the injunction to the province last spring on an ex parte basis, meaning the government's opponents didn't get early notice of the court application and didn't attend the hearing. The order was rescinded a few weeks later when the government said it was no longer needed.

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Nasha Nijhawan, a lawyer representing the Canadian Civil Liberties Association, said in an interview following Monday's proceedings that this is a case she and her team "argued on principle" about the power of government.

The court order was too broad and infringed the charter rights of all Nova Scotians, she said.

"If the attorney general is going to the court without inviting anyone else to present the other side -- with 48 hours' notice -- and (asking) for this extraordinary power, if they're going to do this again, then we need the courts to know what the rules are," Nijhawan said.

The Canadian Civil Liberties Association challenged the court order in June 2021, but a Nova Scotia Supreme Court judge refused to hear the group's motion. Justice James Chipman ruled at the time that a challenge to the original court order was moot because the injunction had been lifted.

During Monday's proceedings, Court of Appeal Justice Joel Fichaud asked Benjamin Perryman, another lawyer for the civil rights group, if the appeal is a roundabout way of challenging Chipman's decision. Perryman said no.

"It's two separate charter questions," Perryman replied. "We are asking you to evaluate what was done by Justice Norton and whether there were legal errors that warrant review."

Duane Eddy, who represents the attorney general of Nova Scotia, told the Court of Appeal the motion by the rights group should be dismissed. He compared the court order granted to the government in May 2021 to other public

granted to the government in May 2021 to other public health measures imposed by the province.

He noted that the Canadian Civil Liberties Association did not challenge any other of the province's public health orders during the pandemic, despite them being similar in scope to the ban on protests.

No decision was made Monday. The three-member Court of Appeal panel will consider what they heard and release a written decision at a later date.

This report by The Canadian Press was first published April 11, 2022.

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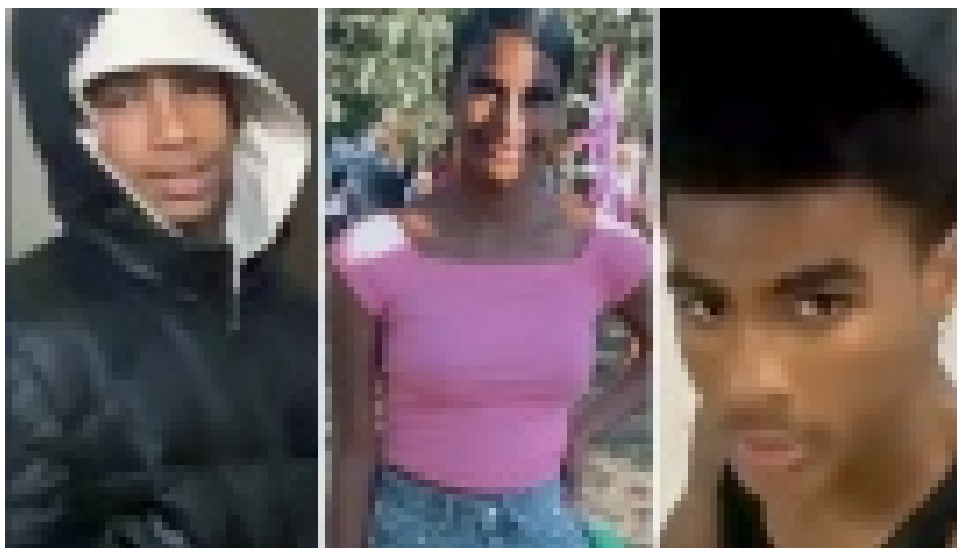
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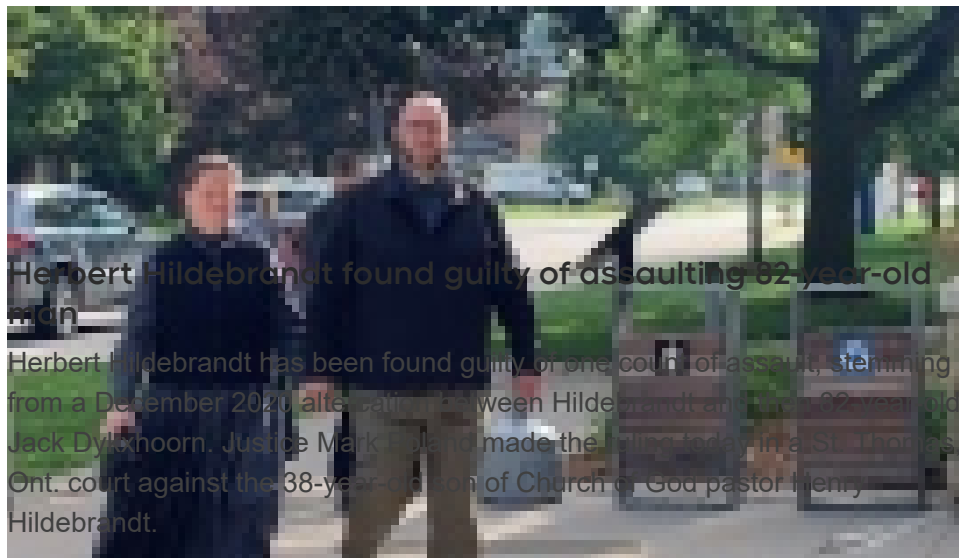
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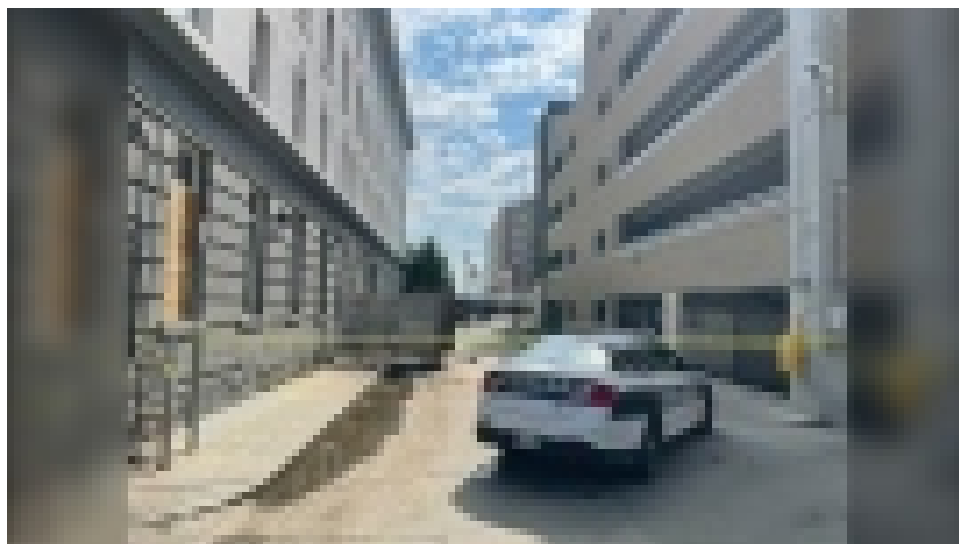
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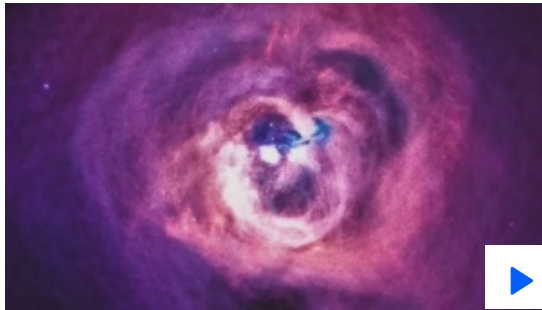
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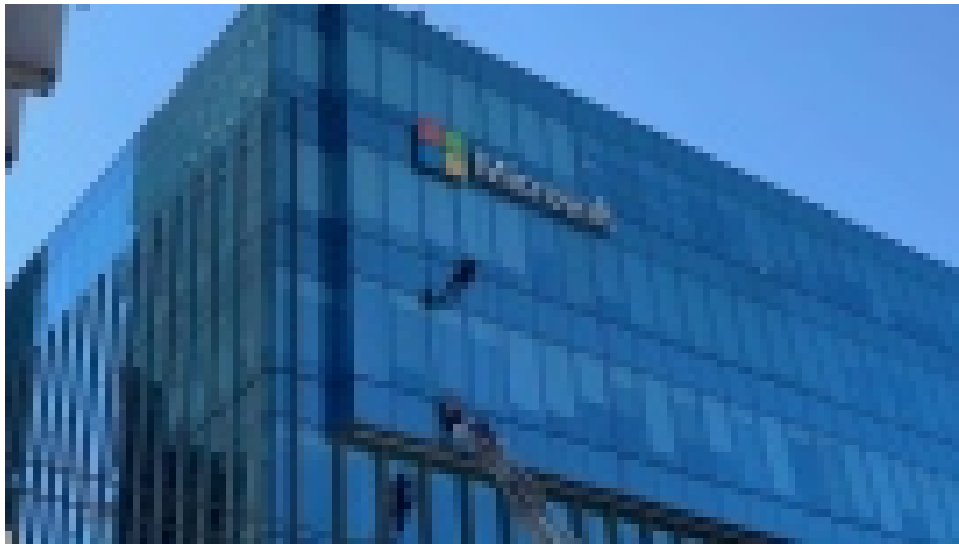
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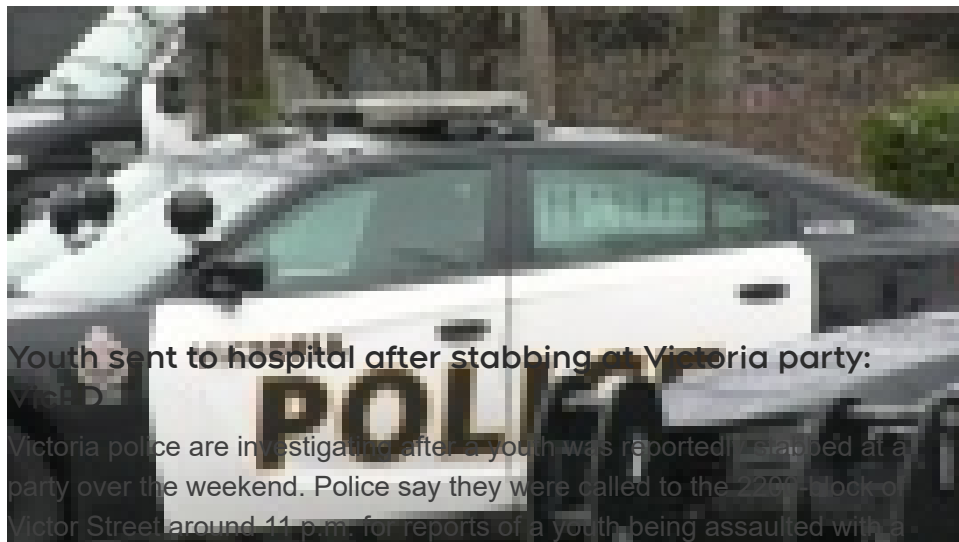
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